

Message Text

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ORIGIN NEA-10

INFO OCT-01 ISO-00 DHA-02 CIAE-00 DODE-00 PM-04 H-02

INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15

NSCE-00 SSO-00 USIE-00 INRE-00 MC-02 EB-07 IO-13

AID-05 ACDA-07 ORM-02 TRSE-00 /089 R

DRAFTED BY NEA/IRN:MLGREENE:AMF
APPROVED BY NEA/IRN:MLGREENE
D/HA:KHILL
NEA/RA:SHOLLY

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FM SECSTATE WASHDC
TO AMEMBASSY TEHRAN IMMEDIATE

C O N F I D E N T I A L STATE 243028

E.O. 11652: GDS

TAGS: SHUM, MASS, IR

SUBJECT: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION

REF: STATE 231122

1. SENATOR HUMPHREY AS CHAIRMAN OF FOREIGN ASSISTANCE
SUBCOMMITTEE HAS ASKED DEPARTMENT TO PROVIDE SUBCOMMITTEE
STAFF BASIC HUMAN RIGHTS DATA AND INFORMATION ON 17 COUN-
TRIES, INCLUDING IRAN, ON A CONFIDENTIAL BASIS FOR THE
STAFF'S USE IN PREPARING LEGISLATION. IN RESPONSE TO THIS
REQUEST, THE SECRETARY HAS AUTHORIZED US TO PROVIDE SUB-
COMMITTEE WITH THIS BASIC DATA AND INFORMATION USING AS A
BASIS THEREFOR UPDATED DRAFTS OF HUMAN RIGHTS OBSERVANCE
REPORTS ON THE 17 COUNTRIES WHICH DEPARTMENT HAS BEEN PRE-
PARING FOR POSSIBLE SUBMISSION EARLY NEXT YEAR IN ACCORDANCE
WITH SECTION 502(B) OF THE FOREIGN ASSISTANCE ACT OF 1961,
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AS AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS
EXPORT CONTROL ACT OF 1976. (TEXT AND A DISCUSSION OF RELE-
VANT LEGISLATIVE PROVISIONS WERE TRANSMITTED BY REFTEL.)
ALL INFORMATION WILL BE PROVIDED ON CLASSIFIED BASIS, AS

SENATOR HUMPHREY REQUESTED AND THE SECRETARY HAS DIRECTED, ALTHOUGH PUBLIC DISCLOSURE CANNOT BE PRECLUDED.

2. WE INFORMED SUBCOMMITTEE REQUESTED INFORMATION IS BEING COLLECTED AND PREPARED FOR TURNOVER IN TWO WEEKS, I.E., OCTOBER 8. ACCORDINGLY, CORRECTIONS, UPDATING INFORMATION, COMMENTS AND EMBASSY CLEARANCE ON THE LATEST, PARTIALLY CLEARED, DRAFT OF THE HUMAN RIGHTS OBSERVANCE ON IRAN, TRANSMITTED BELOW, ARE NEEDED URGENTLY, BY OPENING OF BUSINESS OCTOBER 4 IF AT ALL POSSIBLE. THAT WILL ALLOW TIME FOR COMPLETION OF CLEARANCE PROCESS, TYPING AND SUBMISSION TO CONGRESS BY DEADLINE INDICATED.

3. TEXT OF DRAFT HUMAN RIGHTS REPORT FOR IRAN FOLLOWS.
QUOTE:

I. POLITICAL SITUATION

IRAN IS A CONSTITUTIONAL MONARCHY WITH A TWO-CHAMBER LEGISLATURE WHOSE MONARCH, THE SHAH, HOLDS THE PRINCIPAL DECISION-MAKING POWER IN HIS OWN HANDS. IN THE THIRTY-FIVE YEARS OF HIS REIGN HE HAS INSTITUTED AND IMPLEMENTED MAJOR ECONOMIC AND SOCIAL REFORMS WHICH BROUGHT HIM INTO CONFLICT WITH ENTRENCHED INTERESTS OF FEUDAL LANDLORDS AND TRADITIONAL MOSLEM CLERGY.

THE FIRST TWENTY YEARS OF HIS REIGN WERE LARGELY CONCENTRATED ON CONSOLIDATING HIS PROGRAM AGAINST THE OPPOSITION OF THESE GROUPS AND OF REBELLIOUS TRIBES. DURING THIS PERIOD HE ALSO HAD TO DEAL WITH A STRONG COMMUNIST THREAT TO HIS GOVERNMENT. THE LAST FIFTEEN YEARS HAVE SEEN HIS REFORM PROGRAMS GOING FORWARD WITH NO ORGANIZED OPPOSITION. IN 1975 THE EXISTING POLITICAL PARTIES WERE MELDED INTO A SINGLE PARTY SYSTEM UNDER THE NEW, BROAD-BASED RESURGENCY PARTY AND ELECTIONS WERE HELD FOR THE LOWER HOUSE OF PARLIAMENT.

ANTI-GOVERNMENT ELEMENTS SOMETIMES RESORT TO ACTS OF TERROR-
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ISM THAT POSE NO CREDIBLE THREAT TO THE GOVERNMENT, BUT DO RESULT IN THE MURDERS OF A NUMBER OF GOVERNMENT OFFICIALS AND BYSTANDERS EACH YEAR, INCLUDING IN THE PAST FOUR YEARS THREE AMERICAN MILITARY ADVISERS AND THREE AMERICAN DEFENSE CONTRACTORS.

II. LEGAL SITUATION

IRANIAN CONSTITUTIONAL LAW PROVIDES A COMPREHENSIVE SYSTEM OF GUARANTEE OF BASIC HUMAN RIGHTS, COMBINING TRADITIONAL MOSLEM LEGAL PRINCIPLES WITH CODIFICATION LARGELY PATTERNED AFTER THE FRENCH SYSTEM. CIVIL AND CRIMINAL CASES ARE HANDLED WITH FULL GUARANTEES OF CIVIL RIGHTS. HOWEVER,

CRIMES AGAINST STATE SECURITY OR WHICH INVOLVE DESTRUCTION OF GOVERNMENT PROPERTY OR BODILY HARM TO GOVERNMENT OFFICIALS ARE CONSIDERED TO BE OF SUCH SERIOUS NATURE THAT NORMAL CIVIL PROCEDURES ARE ABROGATED AND TRIAL IS BEFORE A MILITARY TRIBUNAL. THE LAW REQUIRES THAT DEFENSE COUNSEL, USUALLY MILITARY OFFICERS, BE PROVIDED IN SUCH CASES.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

ARTICLE 3: IRANIAN LAW PROVIDES FOR THE PROTECTION OF LIFE, PROPERTY, HOME AND HONOR; ANY INFRINGEMENT MUST BE BASED ON LAW. THESE LEGAL PROVISIONS ARE GENERALLY OBSERVED IN IRAN. CHARGES THAT THEY ARE NOT PROPERLY OBSERVED GENERALLY ARISE OUT OF THE GOVERNMENT'S EFFORTS TO SUPPRESS THE TERRORIST MOVEMENT AND OTHER THREATS TO NATIONAL SECURITY.

ARTICLE 5: THE IRANIAN PENAL CODE SPECIFICALLY PROHIBITS TORTURE AND PROVIDES SEVERE PENALTIES FOR ANYONE WHO TORTURES A PRISONER OR ORDERS THE USE OF TORTURE. WHILE WE HAVE NO DIRECT VERIFIABLE EVIDENCE OF THE USE OF TORTURE--MOST OF THE CHARGES OF WHICH ARE A FEW YEARS OLD--ONE CANNOT DISCOUNT ENTIRELY THE MANY PERSISTENT REPORTS, PARTICULARLY IN THE CONTEXT OF TERRORIST VIOLENCE, THAT THERE HAVE BEEN CASES OF HARSH METHODS BEING USED BY THE IRANIAN POLICE AND SECURITY SERVICES. WE HAVE NO INFORMATION WHETHER ANY OFFICIAL HAS EVER BEEN PROSECUTED FOR THE CONFIDENTIAL

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USE OF TORTURE.

ARTICLE 8: IN MOST CASES, IRANIANS CAN OBTAIN AN EFFECTIVE REMEDY FOR VIOLATIONS OF THEIR RIGHTS WITHIN A JUDICIAL SYSTEM WHICH IS IN MANY RESPECTS A MODEL. HOWEVER, PERSONS WHO ALLEGE THAT THEIR RIGHTS WERE VIOLATED DURING THE PROSECUTION OF THEIR CASES BY SAVAK AND THE MILITARY COURTS HAVE MORE LIMITED POSSIBILITIES OF OBTAINING REDRESS. A DECISION BY MILITARY COURTS CAN BE APPEALED TO A MILITARY APPELATE COURT, WHOSE DECISION EFFECTIVELY EXHAUSTS LEGAL REMEDIES; AN APPEAL CAN ALSO BE ADDRESSED TO THE SHAH WHO HAS ON OCCASION LESSENED THE SENTENCES. THE SUPREME COURT'S JURISDICTION IN SECURITY CASES IS EXTREMELY NARROW AND IT HAS NO AUTHORITY TO RULE ON THE CONSTITUTIONALITY OF CURRENT LEGISLATION SUCH AS THE 1957 SAVAK LAW AND THE MILITARY PENAL CODE.

ARTICLE 9: COURT ORDERS ARE REQUIRED BEFORE ARRESTS CAN BE MADE EXCEPT IN CASE OF SERIOUS OFFENSES; IN SUCH CASES THE ACCUSED MUST NORMALLY BE INFORMED OF THE CHARGES AGAINST HIM WITHIN 24 HOURS. IN SOME CASES, PRETRIAL CONFINEMENT HAS BEEN LENGTHY. WHILE PROVISIONAL DETENTION

IS APPARENTLY NOT EXCESSIVELY USED IN CRIMINAL AND CIVIL CASES, IT HAS BEEN RESORTED TO IN CASES OF SUSPECTED THREATS TO NATIONAL SECURITY AND TERRORIST ACTIVITIES. INTERNAL EXILE IS PERMITTED BY LAW BUT IT IS APPARENTLY RARELY USED.

ARTICLE 10: PERSONS SUSPECTED OF VIOLATING CIVIL AND MOST CRIMINAL LAWS ARE NORMALLY CHARGED SHORTLY AFTER ARREST AND MANY ARE ABLE TO GAIN RELEASE BY POSTING BOND. IRANIAN LAW DOES NOT APPEAR SPECIFICALLY TO TREAT THE CONCEPT OF A HEARING TO DETERMINE THE RIGHTS OF THE ACCUSED.

ARTICLE 11: IRANIAN LAW PROVIDES FOR EQUAL TREATMENT BEFORE THE LAW. VERDICTS ARE TO BE BASED ON ARTICLES OF LAW CITED AND READ IN COURT AND SUBSTANTIATED BY EVIDENCE. LAWS AND PENALTIES MAY NOT BE APPLIED EX POST FACTO. THESE PROVISIONS ARE ADHERED TO IN OPEN TRIALS OF CIVIL AND CRIMINAL MATTERS. SECURITY CASES ARE TRIED IN MILITARY CONFIDENTIAL

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COURTS, OFTEN IN CAMERA. A MILITARY OFFICER IS ASSIGNED TO ACT AS DEFENSE COUNSEL.

OTHER IMPORTANT FREEDOMS

WHILE THERE ARE SOME MANIFESTATIONS OF DISCRIMINATION IN IRANIAN SOCIETY, EQUAL RIGHTS BEFORE THE LAW ARE GUARANTEED AND GENERALLY OBSERVED IN IRAN. AMONG THE RESULTS OF THE REFORMS INTRODUCED BY THE SHAH WAS THE GRANTING OF EQUALITY TO WOMEN.

FREEDOM OF MOVEMENT, BOTH WITHIN THE COUNTRY AND ABROAD, THE RIGHT TO PROPERTY, AND FREEDOM OF THOUGHT AND RELIGION ARE OBSERVED IN IRAN.

THE CONSTITUTION PROVIDES FOR FREEDOM OF THE PRESS EXCEPT FOR A PROHIBITION AGAINST PUBLICATIONS HARMFUL TO ISLAM, BUT ALL PUBLISHERS AND WRITERS ARE ALSO REQUIRED TO CONFORM WITH THE PRESS LAW UNDER THREAT OF PUNISHMENT.

IN GENERAL, THERE ARE NO RESTRICTIONS ON THE PEACEFUL ASSEMBLY OF GROUPS WHICH THE GOVERNMENT CONSIDERS EITHER NON-POLITICAL OR NON-SUBVERSIVE.

IV. OTHER HUMAN RIGHTS REPORTING

AMNESTY INTERNATIONAL'S 1974-75 ANNUAL REPORT STATED THAT THE SITUATION OF POLITICAL PRISONERS IN IRAN HAD GIVEN THE ORGANIZATION "EVEN GREATER CAUSE FOR CONCERN DURING THE PAST YEAR THAN IN PREVIOUS YEARS." THE REPORT RECORDS ALLEGED MISTREATMENT, INCLUDING THE TORTURE AND DEATH OF POLITICAL PRISONERS WHO WERE SAID TO NUMBER POSSIBLY FROM

25,000 TO 100,000 PERSONS. AMNESTY'S 1974 REPORT ON TORTURE INCLUDED ALLEGATIONS THAT "TORTURE OF POLITICAL PRISONERS DURING INTERROGATION HAS BEEN AN ESTABLISHED PRACTICE IN IRAN FOR MANY YEARS" AND CONCLUDED THAT "ENOUGH PRIMA FACIE EVIDENCE OF TORTURE EXISTS TO WARRANT A PROPERLY CONSTITUTED INQUIRY."

AT ITS THIRTY-FIRST SESSION IN 1975, THE UN HUMAN RIGHTS COMMISSION REVIEWED ACCUSATIONS OF GROSS VIOLATIONS OF CONFIDENTIAL

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HUMAN RIGHTS BY IRAN, BASED LARGELY ON MATERIAL PRESENTED BY AMNESTY INTERNATIONAL AND DECIDED THAT NO ACTION WAS CALLED FOR IN THE CASE OF IRAN. THE CONSENSUS OF THE DELEGATES WAS THAT THE COMMUNICATIONS CONCERNING IRAN SHOWED NO CONSISTENT PATTERN OF VIOLATION OF HUMAN RIGHTS AND THE MATTER NEED NOT HAVE BEEN BROUGHT TO THE COMMISSION'S ATTENTION.

THE INTERNATIONAL COMMISSION OF JURISTS PUBLISHED TOGETHER TWO DOCUMENTED REPORTS ENTITLED "HUMAN RIGHTS AND THE LEGAL SYSTEM IN IRAN" IN MARCH 1976. THE PUBLICATION EXPRESSED THE AUTHOR'S OPINION THAT SAVAK HAS SYSTEMATICALLY USED TORTURE OVER A NUMBER OF YEARS; IT STATES THAT NO INDEPENDENT INVESTIGATION OF TORTURE HAS EVER BEEN MADE ALTHOUGH THE SHAH HAS NOT DENIED THAT TORTURE IS USED. THE REPORTS CHARGE THAT OTHER HUMAN RIGHTS ARE ALSO VIOLATED IN IRAN, E.G., BY ARBITRARY ARREST, DETENTION, THE DENIAL "IN PRACTICE" OF FREEDOM OF THE PRESS, AND THE DENIAL OF DUE PROCESS AND A FAIR TRIAL. THE REPORTS PRAISE CERTAIN ASPECTS OF THE JUDICIAL AND PENAL SYSTEMS AND THE WIDE-RANGING ECONOMIC AND SOCIAL REFORMS PROGRAM OF THE GOVERNMENT OF IRAN--"THE SHAH-PEOPLE" PROGRAM--WHICH STARTED IN THE EARLY 1960'S.

FREEDOM HOUSE LISTS IRAN AS "NOT FREE."

UNQUOTE. ROBINSON

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Message Attributes

Automatic Decaptioning: X
Capture Date: 16 SEP 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, US CONGRESSIONAL PRESENTATIONS, INFORMATION CONTROL
Control Number: n/a
Copy: SINGLE
Draft Date: 30 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: SmithRJ
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE243028
Document Source: ADS
Document Unique ID: 00
Drafter: NEA/IRN:MLGREENE:AMF
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Film Number: D760369-0307
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197609108/baaaeqhs.tel
Line Count: 259
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN NEA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: SmithRJ
Review Comment: n/a
Review Content Flags:
Review Date: 10 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <10 JUN 2004 by greenet>; APPROVED <14 OCT 2004 by SmithRJ>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION
TAGS: SHUM, MASS, IR
To: TEHRAN
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006